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Taken for Ride?

By Ernie Csiszar

State insurance commissioner's proposed ridesharing regulations would steer consumers wrong.

As a former Californian and insurance regulator in South Carolina, I have watched the recent regulatory discussions regarding ridesharing. I know first-hand the importance of government providing a regulatory framework to protect consumers. However, such a framework needs to allow for growth and innovation.

As governments grapple with innovations and new industries like ridesharing, there is a temptation to force the innovative companies into the old framework designed for different and often times outdated models. Colorado recently took the lead on doing it right and adopting a legislative framework that protects drivers and riders while recognizing the unique nature of the ridesharing model. The California Public Utilities Commission has also recognized this new industry and established regulatory requirements for ridesharing companies to operate in the state.

However, it is quite revealing that the rules proposed by California Insurance Commissioner Dave Jones are contrary to the law he sponsored and which passed in the Assembly, rules that are inconsistent with requirements for other similar activities in California. Behind these efforts is a well-entrenched and powerful opposition group that includes insurance industry lobbyists, Big Taxi conglomerates and trial lawyers. Their objective is nothing less than bullying the ridesharing competition into premature extinction.

Ridesharing is nothing more than a distinct logistical matching process – cashless, seamless, reliable and convenient. Consumers who need a ride push a button on a smartphone app belonging to a transportation network company and are matched with a driver.

The special interests are lobbying false claims about an “insurance gap” when none such exists. They are using scare tactics on a new service in order to protect their turf and to make more profits for themselves at the expense of drivers and consumers.

I've reviewed the coverage plans and there is no insurance gap. The crux of these opponents' fallacious position is this: Ridesharing drivers rely on two insurance policies to cover their cars. One is the driver's own personal auto policy designed for private use, the other a business auto policy supplied and paid for by the ridesharing company. Personal policies exclude use of the car for “livery” – transporting people for pay.

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Business policies cover “livery.” The fallacy of the opposition group’s position rests in the allegation that “livery” starts when the driver steps into his car and opens the app. Ridesharing companies think that is absurd – and I concur.

Here is why: When ridesharing driver X logs in there is no passenger in the car; there might not even be a prospect on the horizon. There is no pending transaction, there is no payment and there has been no service. There is no act of transportation, no livery and no added risk. There is no mutual contractual consent between two parties for the rendering of services. The parties haven’t even matched or met.

No matter, says the opposition: Driver X then goes “trolling.” But for what purpose? There are no casual curb pickups because the logistics of the transaction have to be prearranged via the transportation network. And yes, like it or not, most personal auto policies today do cover trolling at least until the livery service – the paid act of transportation begins.

Policy carriage

Ridesharing companies have been exemplary corporate citizens, caring to do the right things for both passengers and drivers. Uber, for instance, has a \$1 million per occurrence business policy for liability and added coverage for uninsured and underinsured motorists in place. Most taxicabs are not required to carry these limits. It also secured a policy with limits of \$50,000 per injury, \$100,000 for total injuries and \$25,000 for property damage – three times the state’s requirement – to back up the drivers’ personal policy while they are waiting for a request for a ride. The California Insurance Department, for faulty reasons, has asked for \$1 million coverage from the moment Driver X opens the app along with other coverages not required of taxis or limos anywhere in the state. That is simply inappropriate, irrational and lousy public policy. It is not based on any facts and is so far above the requirements of even the most traditional car services.

In fact, the Insurance Department, as recently as this year, has approved business policy forms and rates that specifically contemplate use of personal vehicles with personal policies in the course of a business. This is how Californians who are pizza delivery guys and nurses who make paid visits to at-home patients and transport them to their care providers are insured while using their personal vehicles and have been for decades. These business policies are sold by many of the very same insurers that oppose ridesharing.

Get ready, California consumers. If this ridiculous recommendation succeeds, you’ll once again be hailing a clunking yellow-colored cab, climb out of the rain into a cramped back seat with a police-car-like glass partition, only to face a rude and maniacal driver who’ll expect a hefty tip. The opposition’s position – developed and driven by auto insurance lobbyists – is inconsistent with its own industry practice, defying both law and common sense.

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former president of the National Association of Insurance Commissioners; and former chief executive of Property Casualty Insurers Association of America, parent of the Association of California Insurance Cos. He is currently clinical professor of insurance and risk management at the University of South Carolina.

**PERSONAL AUTO POLICIES ARE NOT STANDARDIZED
MANY PERSONAL AUTO POLICIES COVER PERIOD 1**

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FACTS

- **Personal auto policies are not standardized or uniform**
- **Major personal auto insurer do not use Insurance Services Office (“ISO”) policy forms**
- Most livery exclusions require a passenger to be in the car and compensation to be owed to apply.
- During Period 1 there is no passenger in the car and no compensation owed
- Personal auto policies are “Adhesion Contracts”
 - Under the law Adhesion Contracts are interpreted in the customer’s favor and against the insurer
 - Under the law Adhesions Contracts must provide the broadest coverage interpretation possible
 - Consumer have no bargaining power in personal auto policy language
- Auto insurance policies are all based around a broad coverage grant that is only limited by narrow policy exclusions.
 - Broad Coverage Grant = *“We will pay for all bodily injury and property damage an insured person is responsible for arising out of the use of a covered automobile.”*
 - Unless a clear exclusion applies, the loss is covered.

Livery Style Exclusions contained in personal auto policies of top US carriers by market share as of December 2014:

- For damages arising out of the ownership, maintenance, or use of a vehicle while it is being used to carry persons for a charge. This exclusion does not apply to the use of private passenger car on a share-the-expense basis;
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- bodily injury or property damage arising out of the ownership, maintenance, or use of any vehicle or trailer while being used:
 - a. to carry persons or property for compensation or a fee; or
 - b. for retail or wholesale delivery, including, but not limited to, the pickup, transport, or delivery of magazines, newspapers, mail, or food.

This exclusion does not apply to shared-expense car pools;

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- bodily injury or property damage arising out of the use of your insured auto while used to carry persons or property for a charge, or any auto you are driving while available for hire by the public. This exclusion does not apply to shared-expense car pools or when the three following conditions are met:
 - a. you are operating an auto as a volunteer service for a nonprofit charitable organization or a governmental agency;
 - b. you are transporting physically or mentally handicapped persons or persons 60 years of age or older; and
 - c. you do not receive more than the amount allowed for by law for reimbursement of actual miles driven.
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- Bodily injury or property damage arising out of the ownership, maintenance or use of any car while it is being used to carry people or property for a fee, wage or tip, including but not limited to pickup or delivery of magazines, newspapers, food or other products. This exclusion, however, does not apply to shared-expense car pools.
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- to any motor vehicle used for commercial purposes but this exclusion does not apply to the named insured with respect to bodily injury or property damage which results from the named insured’s occupancy of a non-owned automobile other than as an operator thereof;
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**PERSONAL AUTO POLICIES ARE NOT STANDARDIZED
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U B E R

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- Any insured's liability arising out of the ownership or operation of a vehicle while it is being used as a public or livery conveyance. This exclusion (X) does not apply to a share-the-expense car pool.
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- Bodily injury or property damage arising from the use of any automobile while carrying persons for a charge;
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- To any person for his liability arising out of the ownership or operation of a vehicle:
 - a. while it is being used to carry persons or property for compensation or a fee, including but not limited to the delivery of food or any other products; or
 - b. while being used for ride-sharing.

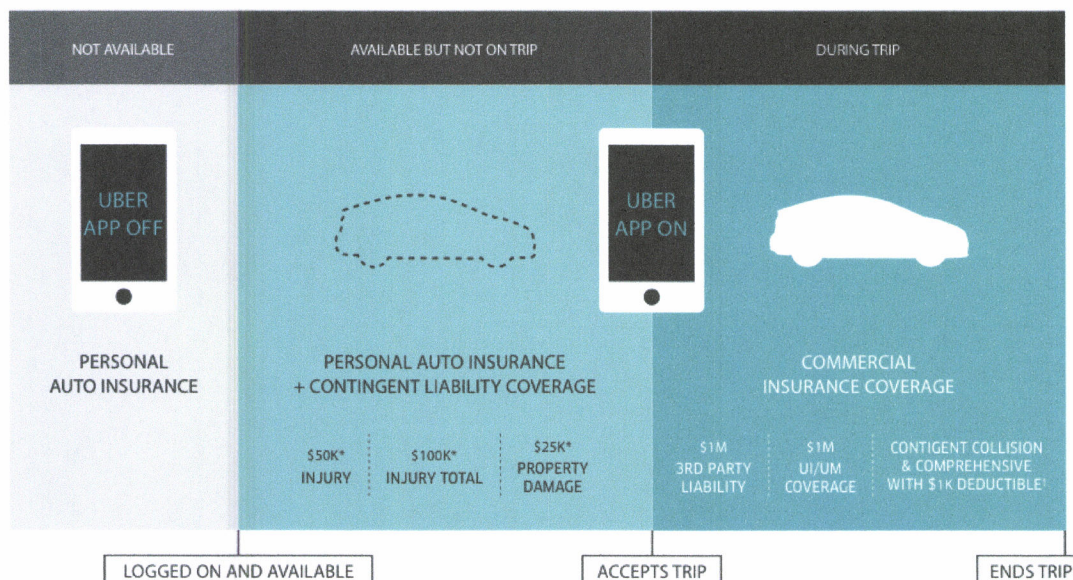
However, a vehicle used in an ordinary car pool is covered.

Since Uber started offering a ridesharing option in the U.S. more than a year ago, our commitment has been to provide riders with the best possible user experience – one they weren't getting from a taxi. In that time, we have revolutionized how people move around their cities with access to the lowest cost, most reliable, safest ground transportation out there. Our uberX offering is almost 50% cheaper than taxis in some cities and has seen massive growth as a result.

Safety is and always has been our top priority. First, we make sure all ridesharing drivers undergo background checks that are among the most stringent in the industry. Second, all ridesharing transportation partners are covered by best-in-class commercial insurance coverage in the event of an accident.

From the time a driver accepts a trip request through our app until the completion of the ride, our partners have \$1 million of coverage for driver liability. We were also the first ridesharing request service to include \$1 million of coverage for uninsured/underinsured motorists, meaning that passengers and drivers are also covered for injuries when another party is at fault and lacks sufficient insurance. This \$1 million coverage from trip acceptance to drop-off is consistent across cities and is expressly primary to a driver's personal auto insurance. We have also added contingent comprehensive and collision insurance during trips, up to \$50,000/incident with a \$1,000 deductible.

uberX Ridesharing Insurance Coverage



*PROVIDES BACK-UP COVERAGE WHEN/IF DRIVER'S PERSONAL AUTO INSURANCE DECLINES CLAIM

¹PROVIDES COVERAGE IF DRIVER'S PERSONAL AUTO INSURANCE INCLUDES COLLISION COVERAGE; UP TO \$50K MAXIMUM (UPDATED 7/14/2014)

Effective March 2014, Uber now provides contingent coverage for a driver's liability at the highest requirement of any state in the U.S: \$50,000/individual/incident for bodily injury, \$100,000 total/incident for bodily injury and \$25,000/incident for property damage.

Uber is taking this step to eliminate any ambiguity while the insurance industry and state governments update policies and regulations for the new world of ridesharing transportation. We are proud to be the standard bearer on this issue as we believe that this clarity is in the public's best interest.

Over time, we fully expect that the personal insurance industry will develop additional products for ridesharing drivers. But with this new coverage today, insurance companies and legislative bodies have the time to be thoughtful in how to embrace the innovation of ridesharing in cities across the country.

We look forward to working with them and with other stakeholders to make sure safety always comes first in the cities and communities we serve.